

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

FREDERIC J. ELLIOTT,)
Plaintiff,) CASE NO. C04-1474RSM
v.) ORDER GRANTING CONSOLIDATION
DRUGSTORE.COM, INC., *et al.*,) AND AMENDING CAPTION
Defendants.)

This case is one of five filed in this District alleging securities fraud by defendants. The related cases, found at C04-1478RSM, C04-1510RSM, C04-1642RSM, and C04-1799RSM, have been transferred to the undersigned District Judge as related cases, and the parties have moved to consolidate. (Dkts. #4, #6, #9 and #13). Defendants agree that these cases should be consolidated, and therefore, do not oppose plaintiffs' motions. (Dkt. #22). Having reviewed plaintiffs' motions, defendants' response, plaintiffs' replies, and the remainder of the record, the Court does hereby find and ORDER:

(1) Plaintiffs' Motions to Consolidate (Dkts. #4, #6, #9 and #13) are GRANTED. The cases at issue in these motions involve common questions of law and fact. Fed. R. Civ. P. 42(a); *Johnson v. Celotex Corp.*, 899 F.2d 1281, 1284 (2nd Cir. 1999). However, this Order does not substitute as an Order certifying this action as a Class Action. If the parties wish to certify a class, they must do so by

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1 moving this Court appropriately. Furthermore, any referenced to a “class,” “class period,” or other
2 class-related language shall be stricken until and unless a class is certified.

3 (2) All future pleadings in C04-1474RSM, C04-1478RSM, C04-1510RSM, C04-1642RSM,
4 and C04-1799RSM shall now be filed under one consolidated case number, C04-1474RSM, and shall
5 be encaptioned *Frederic Elliott, et al., v. Drustore.com, Inc.*. The parties SHALL NOT designate this
6 consolidated action as a “Class Action” until the Court grants authorization to do so. Moreover, the
7 Court will not automatically consolidate future related cases unless and until the parties involved in
8 those cases move this Court to do so, or unless and until this Court certifies a class.

9 (3) The parties’ current pending requests to appoint lead counsel and for preservation of
10 documents shall be considered if and when the parties move this Court to certify the class. Any such
11 requests currently pending shall be removed from this Court’s motion calendar until such time as the
12 parties properly move to certify a class.

13 (4) The Clerk SHALL post a copy of this Order in C04-1478RSM, C04-1510RSM, C04-
14 1642RSM, and C04-1799RSM, and shall send a copy to all counsel of record in those cases.

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16 DATED this 8 day of October 2004.

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/s/ Ricardo S. Martinez
RICARDO S. MARTINEZ
United States District Judge

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